

several large bins. On May 22, 1897, desiring to use one of these bins (No. 49) for another purpose the defendants removed the corn over into another bin, and in so doing discovered it had become heated, whereupon by exposing it to the air they stayed the process of heating and the corn recovered. They also notified the plaintiffs by telegram on discovering the heating in the bin No. 49, but they did not themselves examine the remainder of the corn to see whether it was also becoming heated, nor did the plaintiffs ask them to do so. When on June 3 the corn was run out to be shipped a quantity of it was found to be in an advanced condition of fermentation.

*Held*, that the defendants had been guilty of negligence under the above circumstances and were liable to the plaintiff for the loss sustained by him.

*Henderson*, for defendants. *Leech*, K.C., for plaintiff.

Master in Chambers.] *WHEELER v. CORNWALL.*

[June 4.]

*Practice—Third party—Settlement of action.*

After a third party had been brought in and the usual directions as to trial given the action was settled as between the plaintiff and the defendants.

*Held*, that the defendants could not proceed to trial as against the third party, and the action was dismissed as against the third party with costs, without prejudice to the right of the defendants to bring an action against the third party.

*J. H. Moss*, for third party. *Saunders*, for defendants.

Lount, J.] *SKILLINGS v. ROYAL INSURANCE COMPANY.*

[June 5.]

*Insurance—Fire Insurance—Cancellation—Notice of cancellation received after loss.*

The insured sent to the company his policy with an endorsed surrender clause executed and a letter asking that the insurance be terminated and the unearned proportion of the premium repaid. Owing to its misdirection by the insured the letter was delayed in the post office and did not reach the company till the morning after the insured goods had been destroyed by fire.

*Held*, that the letter did not take effect from the time of its being posted, but only from the time of its receipt; and that the relationship of the parties had been so changed by the occurrence of the fire before its receipt that the attempted surrender did not operate, and therefore that the company were liable for the loss.

*Riddell*, K.C., and *Fasken*, for plaintiffs. *Robinson*, K.C., and *MacInnes*, for defendants.